

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

April 16, 1954

To Milton Bradford, Esq., M. E. S. C.

Re: Assignment of Lease

. . . In our opinion an assignment of a lease should be negotiated with the same formalities as the original lease and therefore the instrument should be impressed with the corporate seal of the corporation executing the lease and their signatures should be witnessed. . .

JAMES GLYNN FROST

Deputy Attorney General

April 20, 1954

To Carl Treworgy, Clerk, Harness Racing Commission

Re: Section 12, Chapter 77, R. S. 1944, as amended

Referring to your request dated March 1, 1954, for an opinion:—

It has been brought to the attention of this department by Governor Burton M. Cross that an objection has been made because of our refusal to answer the question,

“Could an agricultural fair association operate an annual fair, with pari mutuel racing, on the Gorham race track in Gorham, Maine, after Labor Day whether or not Scarborough Downs was conducting running racing at that time?”

The refusal was based on the fact that we were advised that there was no agricultural fair association, duly incorporated, placing the question before you. We have advised Governor Cross that this office does not answer academic questions, but is always pleased to answer actual problems when occasion arises.

If the circumstances concerning your case have been altered to the extent that you now have a current problem with respect to this question, we shall be pleased to answer. Kindly advise.

JAMES GLYNN FROST

Deputy Attorney General

April 23, 1954

To Earle R. Hayes, Secretary, Maine State Retirement System

Re: Water Commission of South Paris Village Corporation

This is in response to your request for an opinion relative to the right of the Water Commission of the South Paris Village Corporation to enter into an agreement with your State agency for coverage under the Social Security Act.

An examination of the statutes relating to the South Paris Village Corporation, Chapter 140 of the Private & Special Laws of 1909, as amended by Chapter 236 of the Laws of 1911, reveals a rather clear intent that the water system would be under the jurisdiction of the South Paris Village Corporation. We find nothing to show that the South Paris Water Commission or Water Department is a corporate entity by itself.

It is our opinion, therefore, that employees of the Water Commission would come under the agreement negotiated by the South Paris Village Corporation and that they would not be eligible to enter into a separate agreement for coverage.

JAMES GLYNN FROST
Deputy Attorney General

April 28, 1954

To Peter W. Bowman, M. D., Superintendent, Pownal State School
Re: Subpoena to Inmate

I am returning the subpoena sent to you which commands that a patient at Pownal appear on Tuesday, May 11, 1954, at a time certain to testify for the State in Lincoln County.

I have talked to the County Attorney, who informed me that it is a question relative to whether this girl was raped or not, and therefore she is definitely a material witness to the cause.

The question of her mental deficiency, if she have any, will be primarily for the grand jury. We suggest therefore, as you have technical physical custody of this girl, that you comply with the request of the court and that if further instances of this nature arise, you do the same.

In view of her questionable mental ability I do not think it necessary that she be actually served with the process. Its being sent to you should be sufficient. All members of the State family must cooperate in order to see that justice is done.

ROGER A. PUTNAM
Assistant Attorney General

May 4, 1954

To Paul MacDonald, Deputy Secretary of State
Re: "Convicted"

You have asked this office for an interpretation of the word "convicted" as it appears in Section 121, Chapter 19, R. S. 1944, as amended, and as it relates to the case of P. Edward DeBery. The said section reads as follows:

"The license or right to operate motor vehicles of any person *convicted* of violating the provisions of this section shall be revoked immediately by the Secretary of State upon receipt of an attested copy of the court records, without further hearing."

Mr. DeBery had been tried in the Superior Court for the County of Sagadahoc on the charge of operating a motor vehicle while under the influence of intoxicating liquor. After verdict of guilty and sentence, Mr. DeBery perfected exceptions previously taken to the refusal of the Court to direct a verdict of not guilty. The Supreme Court overruled the exceptions and entered judgment for the State.

In conformity with other provisions of our statutes, where exceptions are allowed, DeBery had personally recognized for his appearance in the Superior